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10/665,059	09/18/2003	John E. Rogers	J. Rogers	5491

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EXAMINER

CONLEY, FREDRICK C

ART UNIT PAPER NUMBER

3673

DATE MAILED: 09/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/665,059

Applicant(s)

ROGERS, JOHN E.

Examiner

Fredrick C Conley

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 13, 17, 20 and 22 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-12, 14-16, 18, 21 and 23-25 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### ***Claim Objections***

Claims 14-16, 18-19, 21, and 23 are objected to because of the following informalities:

It is also unclear what the Applicant is attempting to encompass with the limitations "or other structure", "or otherwise designed or configured", "or other means" recited in the claim.

Claims 13, 17, 20, and 22 have been withdrawn by the Applicant from further consideration in the paper filed 6/29/04.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12, 14-16, 18, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,675,855 to Culp.

Claim 12, Culp discloses a device comprising:

a foam mattress (10) cushion containing a plurality of vacant regions 24;

a bladder (14,16) semi-permeable to or other fluids, completely encasing said mattress via a passageway 20 to allow and control the ingress and egress of a gas into the pores within the materials encased by the bladder.

Art Unit: 3673

Claim 14, Culp discloses a method for reducing the possibility of development of deleterious body lesions in a human body under conditions of continued bed confinement by:

placing a mattress 10 designed to minimize localized stress concentrations caused by the weight of the body thereon within a bladder (14,16) impervious to gases or other fluids, completely encasing said mattress,

varying the fluid pressure in the material as a means 20 of controlling the resiliency of said material to a desired support level,

wherein the support structure comprises a mattress containing provision for reduction of localized stresses in certain portions of the body being supported by the removal of portions 24 of the mattress material in one or more selected regions.

Claim 15, Culp discloses a method for reducing the possibility of development of deleterious body lesions in a human body under conditions of continued bed confinement by:

placing a mattress designed to minimize localized stress concentrations caused by the weight of the body thereon within a bladder (14,16) impervious to gases or other fluids, completely encasing said mattress,

varying the fluid pressure in the material as a means of controlling the resiliency of said material to a desired support level,

wherein the support structure comprises a mattress containing provision for reduction of localized stresses in certain portions of the body being supported by the removal of portions 24 of the mattress material in one or more selected region, forming

Art Unit: 3673

a plurality of vacant regions, where said vacant regions are in the shape of an upright truncated cone 40.

Claim 16, Culp discloses a method for reducing the possibility of development of deleterious body lesions in a human body under conditions of continued bed confinement by:

placing a mattress designed to minimize localized stress concentrations caused by the weight of the body thereon within a bladder (14,16) impervious to gases or other fluids, completely encasing said mattress,

varying the fluid pressure in the material as a means of controlling the resiliency of said material to a desired support level, wherein the support structure contains provisions 24 for reduction of localized stresses by means of inherently cutting portions of the mattress material in one or more selected regions.

Claim 18, Culp discloses a method for reducing the possibility of development of deleterious body lesions in a human body under conditions of continued bed confinement by:

placing a mattress designed to minimize localized stress concentrations caused by the weight of the body thereon within a bladder (14,16) impervious to gases or other fluids, completely encasing said mattress,

varying the fluid pressure in the material as a means of controlling the resiliency of said material to a desired support level,

Art Unit: 3673

wherein the support structure comprises a seat cushion and said seat cushion contains provisions for localized relief of stress comprising one or more regions where material has been inherently removed selectively from the seat cushion.

Claim 23, Culp discloses a method for reducing the possibility of development of deleterious body lesions in a human body under conditions of continued bed confinement by:

placing a mattress designed to minimize localized stress concentrations caused by the weight of the body thereon within a bladder (14,16) impervious to gases or other fluids, completely encasing said mattress,

varying the fluid pressure in the material as a means of controlling the resiliency of said material to a desired support level,

wherein the support structure comprises a seat cushion and wherein said seat cushion contains provisions for localized relief of stress comprising one or more regions 24 where material has been inherently removed or omitted selectively from said seat cushion.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3673

Claims 1-2, 8, 10-11, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,675,855 to Culp in view of U.S. Pat. No. 3,798,686 to Gaiser.

Claim 1, Culp discloses a device comprising:

a foam mattress (10) cushion containing cutout portions 24;

a bladder (14,16) impervious to gases or other fluids, completely encasing said cushion;

a passageway 20 to allow and control the ingress and egress of a gas into the pores within the materials encased by the bladder. Culp fails to disclose a pressure pump to allow continuous variation of the fluid pressure within said bladder. Gaiser discloses a mattress having a pressure pump (col. 4 lines 52-56). It would have been obvious to one having ordinary skill in the art at the time of the invention to employ a pressure pump with the cushion of Culp as taught by Gaiser in order to adjust the support to individual needs.

Claim 2, wherein the encased material comprises a foam mattress in which portions of the support material have been removed or omitted in selected regions of the material (col. 3 lines 35-36), and the sides of the opening thus formed are such that they slope outward and downward from the center like a truncated cone (col. 3 lines 55-56) (Culp).

Claim 8, wherein said bladder is permanently sealed to prevent any escape of the fluid contained therein (col. 3 lines 5-8).

Art Unit: 3673

Claim 10, wherein the mattress contains provisions for localized relief of stress comprising one or more regions 24 where material has been removed or omitted selectively from said seat cushion (Culp).

Claim 11, where a variable orifice 20 is contained within the surrounding membrane to control the rate of gaseous exchange from within the membrane to outside of the membrane and vice versa (col. 3 lines 9-14).

Claim 24, Culp discloses all of the Applicant's claimed limitations except for a pressure pump to allow continuous variation of the fluid pressure within said bladder. Gaiser discloses a mattress having a pressure pump (col. 4 lines 52-56). It would have been obvious to one having ordinary skill in the art at the time of the invention to employ a pressure pump with the cushion of Culp as taught by Gaiser in order to adjust the support to individual needs.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,675,855 to Culp in view of U.S. Pat. No. 5,343,579 to Dickerhoff et al.

Claim 25, Culp discloses all of the Applicant's claimed limitations except for a Ziploc fastening means. Dickerhoff discloses an enclosure having a Ziploc fastening means (col. 3 lines 10-17). It would have been obvious to one having ordinary skill in the art at the time of the invention to employ the Ziploc fastening means as taught by Dickerhoff in order to seal the enclosure.

Claims 4-5 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,675,855 to Culp in view of U.S. Pat. No. 3,798,686 to Gaiser., and further in view of U.S. Pat. No. 5,022,111 to Fenner.



Art Unit: 3673

Claim 4-5 and 21, Culp, as modified, discloses all of the Applicant's claimed limitations except for the mattress formed from a convoluted foam material. Fenner discloses a mattress formed from a convoluted foam material 15 with smooth side upward. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ a convoluted foam material as taught by Fenner in order for the bottom to conform to the supporting bed frame structure and help distribute the pressure soars to reduce the tendency for upward forces to pass through to the individual.

Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,675,855 to Culp in view of U.S. Pat. No. 3,798,686 to Gaiser., and further in view of U.S. Pat. No. 3,846,857 to Weinstock.

Claims 6-7, Culp, as modified, discloses all of the Applicant's claimed limitations except for different types of foam material encased in individual membranes in selected regions. Weinstock discloses a mattress formed of different types of foam material encased in individual membranes in selected regions (10,12,13,14,15). It would have been obvious to one having ordinary skill in the art at the time of the invention to employ the different foam material as taught by Weinstock in order to promote maximum comfort and to minimize the occurrence and severity of decubitus ulcers.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,675,855 to Culp in view of U.S. Pat. No. 3,798,686 to Gaiser, and further in view of U.S. Pat. No. 5,343,579 to Dickerhoff et al.

Art Unit: 3673

Claim 9, Culp, as modified, discloses all of the Applicant's claimed limitations except for a Ziploc fastening means. Dickerhoff discloses an enclosure having a Ziploc fastening means (col. 3 lines 10-17). It would have been obvious to one having ordinary skill in the art at the time of the invention to employ the Ziploc fastening means as taught by Dickerhoff in order to seal the enclosure.

***Allowable Subject Matter***

Claim 19 is allowed.

Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments with respect to claims 1-12, 14-16, 18-19, 21, and 23-25 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 3673


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fredrick C Conley whose telephone number is 308-7468. The examiner can normally be reached on m-th m-fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FC  


  
MICHAEL F. TRETTEL  
PRIMARY EXAMINER  
ART UNIT 358